

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARGRETTY RABANG *et al.*,

11 Plaintiffs,

v.

12 ROBERT KELLY, JR., *et al.*,

13 Defendants.

CASE NO. C17-0088-JCC

ORDER

15 This matter comes before the Court on Defendants' motion to strike (Dkt. No. 176).

16 Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral
17 argument unnecessary and hereby DENIES the motion for the reasons explained herein.

18 Under Federal Rule of Civil Procedure 12(f), a district court "may strike from a pleading
19 an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." "[T]he
20 function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise
21 from litigating spurious issues by dispensing with those issues prior to trial . . ." *Sidney-*
Vinstein v. A.H. Robins Co., 697 F.2d 880, 885 (9th Cir. 1983).

22 This case is currently on appeal before the Ninth Circuit, which stayed the appeal
23 pending the outcome of the appeal in *Doucette v. Zinke*, Case No. 2:18-cv-0859-TSZ (W.D.
24 Wash.). (See Dkt. No. 174.) On January 29, 2020, Plaintiffs provided notice that they had filed a
25 Rule 62.1 motion for indicative ruling on Plaintiffs' Rule 60(b) and 15(a)(2) motions filed in

1 *Doucette v. Bernhardt*, Case No. 2:18-cv-0859-TSZ (W.D. Wash.). (Dkt. No. 175.)

2 Defendants now move to strike Plaintiffs' notice. (Dkt. No. 176.) Plaintiff's notice
3 informs this Court of activity in a related case and references previously undisclosed emails
4 between the Department of Interior's new Nooksack special election point-person and the Tribal
5 Council's lobbyist. (*See* Dkt. No. 175.) Defendants contend that the Court should strike the
6 notice because it excerpts the emails in a misleading way that casts an excessively adverse light
7 on the Kelly Defendants. (*See* Dkt. No. 176 at 3.) Based on the present briefing, the Court is not
8 persuaded that the material in the notice is so impertinent or scandalous that it should be stricken.
9 *See* Fed. R. Civ. Pr. 12(f). Nor is there any indication that Plaintiffs' notice would give rise to
10 litigation of "spurious issues." *Sidney-Vinstein*, 697 F.2d at 885. Therefore, Defendants' motion
11 to strike (Dkt. No. 176) is DENIED.

12 DATED this 7th day of April 2020.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE